# DISCUSSION PAPER

# ON

# THE AUTOMOTIVE INDUSTRY

February 1991

# I. PREFACE

## A. How To Read This Discussion Paper

This discussion paper is organized for the convenience of the reader.

The conclusions and recommendations of the Automotive Working Committee are based on the assumption of certain priniciples which are outlined in the introduction and in the overview to each section. Understanding the priniciples on which the Committee based its recommendations will help the reader understand why the Committee made the recommendations it did.

There are five main sections. Each section begins with an overview of the philosophical direction the Automotive Working Committee took when making its recommendations. The overview is provided to give the reader a better understanding of the concepts and reasoning the Committee used in reaching its recommendations.

The reasoning used by the Committee to reach an individual point will be explained in an intent statement following the point if the Committee believes it is necessary for clarity.

Please remember, reader, that this is only a "discussion paper". The Committee has completed only the first stage of its work: preparation.

The most important stage of its work is this one: asking for your comments about its recommendations. It is important that the Committee hears back from representatives of the two groups who will be affected by the recommendations--you, the consumer, and you, the business person.

Once your comments have been received, the Committee will review its recommendations in the light of your comments, suggestions, and criticisms. They will amend the discussion paper in those areas that they believe are necessary as a result of the input they receive. Only then will the discussion paper become the official Report of the Automotive Working Committee to the Minister of Consumer and Corporate Affairs.

Please become part of this process of creating legislation that will directly affect you. Please take the time to comment on this discussion paper.

The reader may disagree with the priniciples upon which the recommendations were based, or the reader may disagree with individual recommendations while being in agreement with the principles upon which they were based. It will be very helpful if the comments and criticisms you submit to the Committee can be identified as comments or criticisms of the principles upon which a recommendation was based, or comments or criticisms about a specific recommendation.

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## C. Letter From The Committee Chairman

Automotive Working Committee
Care of Alberta Consumer and Corporate Affairs
19th Floor, 10025 Jasper Avenue
Edmonton, Alberta T5J 3Z5

The Automotive Working Committee was appointed in August of 1989 by the Honourable Dennis Anderson, Minister of Consumer and Corporate Affairs. My own appointment as chairman was made at the same time. It was felt that my twelve years of automotive leasing experience would help me in chairing the Committee's complete review of the automotive marketplace.

The Automotive Working Committee is an example of the cooperative partnership between industry, consumers, and government, and on its behalf, I am pleased to present its preliminary recommendations for creating a fair, equitable marketplace. A complete review of this discussion paper should help you to formulate your own opinions and reactions to the various proposals that have been outlined. I encourage you to share your views about these proposals with the Committee.

The Committee will complete the final report after it has heard your opinions. It is important that you make your views known so that the Committee can present the most relevant recommendations possible---the future of the Alberta automotive marketplace depends on it.

As Chairman of the Automotive Working Committee, I look forward to hearing from you.

Thank you,

Donald A. Dixon
Chairman

## D. Introduction

In August 1989, the Honourable Dennis Anderson, Minister of Consumer and Corporate Affairs, appointed an Automotive Working Committee. The appointment of the Committee was in response to requests from the automotive industry for greater involvement in the regulation of their industry. This Committee was asked to review the automotive marketplace, to identify areas that needed greater consumer protection, and to make recommendations that would provide that consumer protection. The Committee, composed of automotive industry representatives and consumer representatives, was asked to develop a framework for an organization that would embody the regulatory partnership principle between industry, consumers, and government.

The Automotive Working Committee began its work in September 1989. The recommendations contained in this discussion paper are the result of many months of work. These recommendations are not yet final, and can be modified at any time before the Committee's report is submitted to the Minister of Consumer and Corporate Affairs.

Many automotive businesses have expressed a desire to participate with government and consumers in regulating their marketplace. The Committee found that the Alberta automotive industry believes its constituent businesses should meet more stringent standards in order to obtain a provincial business licence, and then should uphold stricter standards of business operation to maintain that licence. Both consumers and industry representatives see a need for more education about how to conduct automotive transactions. Better automotive education will equip consumers with knowledge that will allow them to participate in those transactions on a more equal footing with industry. Better education of automotive industry personnel about consumer issues will increase the ease with which these transactions occur. Procedures for complaint resolution that would better satisfy all parties are also necessary.

### The Committee Members

The Automotive Working Committee is composed of eleven persons: eight industry representatives, two consumer representatives, and a chairperson. The industry representatives were appointed from four automotive industry associations: the Automotive Service and Repair Association, the Motor Dealers Association of Alberta, the Recreation Vehicles Dealers Association of Alberta, and the Used Car Dealers Association of Alberta. Alberta Consumer and Corporate Affairs had two people acting as resource people for the committee---the Director of Industry Standards, and a research consultant.

The following persons served on the Automotive Working Committee:

| | |
|---|---|
| Donald Dixon | Chairman |
| Mrs. Betti Weiss | Consumer Representative |
| Mrs. Ruth Wood | Past-President, Consumer Association of Canada (Alberta) |
| Keith Lancastle | Automotive Service and Repair Association |
| Mike Shybunka | Automotive Service and Repair Association |

| | |
|---|---|
| L.E. (Joe) Ostlund | Motor Dealers Association of Alberta |
| Robert Suitor | Motor Dealers Association of Alberta |
| Morley Peacock | Recreation Vehicle Dealers Association of Alberta |
| Marty Vellner | Recreation Vehicle Dealers Association of Alberta |
| William (Bill) Dekker | Used Car Dealers Association of Alberta |
| Dennis LaGrange | Used Car Dealers Association of Alberta |

Alberta Consumer and Corporate Affairs

| | |
|---|---|
| Harold Baker | Director, Industry Standards |
| Mrs. Susan Barylo | Research Consultant |

## Committee Goals

The Committee was asked by the Minister of Alberta Consumer and Corporate Affairs to examine the automotive marketplace in its entirety and to make recommendations in the following five areas: development of a regulatory board for the automotive industry, licensing of automotive businesses, resolution of consumer automotive complaints, compensation for consumers, and automotive education.

The basic principles used by the Automotive Working Committee in the preparation of this Discussion Paper include the following:

- that licensing certain types of businesses is necessary for consumer protection,
- that if businesses are licensed an effective system of consumer complaint resolution is necessary,
- that a compensation fund administered by the licensing body is fairer to consumers than a surety bond requirement where payment from the bond may be determined by a party who has no vested interest in the legislation,
- that educating both consumers and businesses about their rights and responsibilities in the automotive marketplace is extremely important, and
- that delegating the responsibility for administering the regulation that outlines all these principles to an independent body composed of representatives of both players in the marketplace--consumers and businesses--is the most effective means of administration.

## Summary of Committee's Tasks

1. Design a regulatory organization

   The Committee considered where the responsibility for licensing, consumer complaint resolution, education, and compensation for consumers should rest. The Committee believes that the responsibility should be delegated to a regulatory organization composed of industry and consumer representatives. The cost of maintaining such a regulatory organization should be fully supported by licence fees.

   The ultimate task of the Committee was to develop a model for an independent organization to which the responsibilities for licensing, complaint handling, and education could be delegated by Alberta Consumer and Corporate Affairs. The persons who sat on this regulatory board would need to represent both Alberta

consumers and the many different sectors of the automotive industry in Alberta. The proposed regulatory board would need to be self-supporting, independent, and fair.

2. Licensing

The main objective of licensing is to provide greater consumer protection than would be possible if businesses were not licensed. The Committee first examined the automotive marketplace and determined where consumers were at risk, and whether licensing those businesses would better protect consumers. The Committee next had to decide what type of requirements a business should meet to obtain a licence, and what type of ongoing standards a business must uphold to maintain the license. The Committee then needed to decide what personnel in the automotive industry should meet some minimum qualifications or standards, and whether licensing those people would be helpful to consumers.

3. Consumer Complaint Resolution

The Committee was asked to determine the manner in which consumer complaints about the licensed automotive business should be handled. A complaint resolution system needed to be fair for both consumers and businesses, and to be a system where both parties will have the right to appeal decisions made at any step of the process. The Committee believes that complaint resolution mechanisms that could address the interests of both the consumer and of the business should be emphasized.

4. Compensation for Consumers

The Committee was asked to develop a system in which consumers who lost money as a result of unfair dealings by an automotive business would have access to compensation for their financial loss. The Committee determined that the establishment of a compensation fund paid for by the licensees was the most effective route to take. The administration of this compensation fund could be delegated to the regulatory organization.

5. Education of Businesses and Consumers

The average consumer does not have enough knowledge about the products and services available in the automotive marketplace to be on a level footing with the automotive business in his consumer transactions. Neither does the average automotive business have enough knowledge about consumers' expectations regarding automotive transactions. The Committee was asked to make recommendations that would increase the level of knowledge in both groups.

**Abstract**

The proposals of the Automotive Working Committee require the licensing of all automotive businesses, automotive salespersons, and automotive leasing agents in Alberta. They also require the disclosure of the previous use of certain vehicles, the

use of plain language contracts by automotive businesses, the creation of an industry-sponsored compensation fund to protect consumers who deal with licensed automotive businesses, and adherence to certain standards of business operation by all licensed automotive businesses.

There are four major areas of concern in the automotive marketplace: the requirements for entry into the marketplace, information disclosure by businesses, post-transaction protection, and leasing motor vehicles. There is concern about the standards which must be in place and met by the businesses in the marketplace. These standards incorporate not only general requirements regarding integrity and trustworthiness, that are applicable to many other industries but also specific requirements such as educational standards for participants. The concern with information disclosure includes both disclosure in the documentation relating to transactions and disclosure in advertising. Buyers must be aware of all the relevant information regarding their purchases or transactions, and if they are aware then they are less likely to be dissatisfied with them. Post-transaction protection concerns include such things as warranties, repairs, and complaint resolution mechanisms.

Establishing knowledge criteria for participants in a marketplace provides assurance to the consumer of a minimum level of competence in those participants, and helps to reduce problems resulting from negligence or simple lack of awareness. In the automotive field, there are many areas with which an automotive business should be familiar to best serve the consumer. These include advertising standards, warranties, contract terms and conditions, and consumers' rights and responsibilities. Different standards for different sectors of the marketplace are necessary.

The private resale of personal vehicles by consumers is not an area of concern to the Committee; however, in exempting persons not in the business of selling vehicles, a loophole is created that can allow unfair practices to occur. The sales of vehicles by private transaction, or services that are provided by unlicensed repair facilities offer the consumer little or no protection. Unlicensed businesses do not meet the same standards that a licensed business must, and customers of unlicensed businesses are more likely to experience problems. "Curb-side" sales offer the consumer little protection. There is also a problem with individuals who do not operate from a fixed place of business, who enter the marketplace by attending automobile auctions to obtain used cars which they then sell under the guise of a private sale. These people are commonly called "curbers".

## II. MODEL OF AUTOMOTIVE REGULATORY BOARD

### Overview

#### Delegation of Regulation

Alberta Consumer and Corporate Affairs is considering delegating some of its responsibility for licensing, complaint handling, and education to an organization composed of both industry and consumer representatives. Alberta Consumer and Corporate Affairs hopes to find a mechanism where industry, consumers, and government can work together in partnership to create a marketplace that is fair for everyone.

### A. Creation Of The Automotive Regulatory Board

1. The Automotive Working Committee recommends that a board be created called the Automotive Regulatory Board.

2. The Automotive Regulatory Board will be made up of an equal number of representatives from licensed automotive businesses and consumer representatives, plus one chairperson.

3. The Automotive Working Committee recommends that Alberta Consumer and Corporate Affairs delegate to the Automotive Regulatory Board the responsibilities for licensing, complaint resolution, and education that are currently administered by the Department under the Automotive Business Licensing Regulation.

### B. Purpose Of The Automotive Regulatory Board

1. The Automotive Regulatory Board is to carry out the rights, obligations, or functions delegated to it by the Director of Licensing of Trades and Businesses.

2. The responsibilities of the Board may include but are not limited to the following:
   (a) administering the licensing function by
   - issuing, renewing, suspending, or cancelling automotive business licenses, automotive salesperson's licenses, and automotive leasing agent's licenses
   - ensuring that the persons who hold automotive business agent positions are qualified to do so
   - ensuring that persons who are licensed as automotive salespersons and automotive leasing agents are qualified to be so
   - ensuring that automotive businesses are upholding the standards for business operation laid down in the regulation
   - setting minimum equipment standards for automotive businesses
   - providing consumers with selected information regarding licensees
   - investigating unlicensed automotive businesses, salespersons, or

leasing agents, and their activities
- undertaking enforcement of the regulation, and prosecution of contraventions where required.

(b) administering the complaint resolution process

(c) managing the Automotive Consumers' Compensation Fund, management will include
- collecting levies
- investing funds
- ensuring that the guidelines for claims and awards are followed
- providing for the regular audit of the fund
- using the investment income from the fund to provide for the administration of the fund and other specified purposes

(d) providing education and information about the automotive industry to both consumers and automotive businesses.

(e) maintaining a current register of
i) each licensed automotive business,
ii) each designated automotive business agent,
iii) each licensed automotive business salesperson, and
iv) each licensed automotive business leasing agent.

3. The Automotive Regulatory Board will work toward achieving consistency in the automotive terminology and definitions used by the provincial government in the various pieces of legislation which affect the automotive industry.

4. The Automotive Regulatory Board must prudently, frugally, and wisely manage the monies entrusted to it by the licensees. To that end, an annual audited statement prepared by an independent auditor will be made available to its licensees upon request.

## C. Composition Of Board

1. The Automotive Regulatory Board will be composed of the following: a chairperson, five consumer representatives, and five industry representatives.

Chairperson

2. The Minister will appoint the chairperson of the Automotive Regulatory Board. The chairperson must have a strong automotive industry background but must have no active, vested interest in an automotive business licensed by the Automotive Regulatory Board. The Automotive Working Committee, and the future Automotive Regulatory Board, may make recommendations and suggestions to the Minister about candidates that they feel are qualified to hold the chairperson's position.

Consumer Representatives

3. The Minister of Consumer and Corporate Affairs will appoint five persons to serve as the consumer representative members of the Automotive Regulatory Board.

Industry Representatives

4. The Minister of Consumer and Corporate Affairs will select the industry representatives for the Automotive Regulatory Board from a list of nominees forwarded to him. The industry representatives will be selected as follows:
   (a) two representatives from businesses licensed as motor vehicle sales businesses or motor vehicle broker businesses,
   (b) two representatives from businesses licensed as automotive service and repair businesses,
   (c) one representative from any licensed automotive business.

5. The owner/principal of a licensed automotive business is eligible for nomination as an industry representative on the Automotive Regulatory Board.

6. Each nomination must be sponsored by twelve licensed automotive businesses.

7. The Automotive Working Committee will establish an Industry Nomination Subcommittee to review the nominations for industry representatives on the first Automotive Regulatory Board, and to forward a list of nominees to the Minister of Consumer and Corporate Affairs. Each active Alberta automotive association will have one representative on the nomination subcommittee.

8. The Automotive Regulatory Board will establish a standing Industry Nomination Committee on which each active Alberta automotive association will have one representative. The Committee's purpose will be to review the nominations for industry representatives on the Board, and to forward a list of nominees to the Minister of Consumer and Corporate Affairs.

9. The Industry Nomination Committee must verify
   (a) that the nominee is an owner/principal of a licensed automotive business,
   (b) that the nomination is sponsored by twelve licensed automotive businesses,
   (c) that the nomination is accompanied by the candidate's resume,
   (d) that the nominee is qualified to hold the position for which they are nominated.

10. The Industry Nomination Committee will forward to the Minister twelve nominations for the positions of industry representative on the Automotive Regulatory Board.

11. If more than twelve nominations are received, the Industry Nomination Committee will vote on all the nominees, and the twelve nominations receiving the most votes will be forwarded to the Minister.

12. If less than twelve nominations are received, the Industry Nomination Committee will be responsible for ensuring that a minimum of ten nominations, two for each of the five industry positions on the Board, will be forwarded to the Minister.

Terms

13. The term of office for a Board member of the Automotive Regulatory Board will be for three years.

14. When the first Automotive Regulatory Board members are appointed, one consumer and one industry representative will be appointed for a one-year term, two consumers and two industry representatives will be appointed for a two-year term, and the final two consumers and two industry representatives will be appointed for a three-year term. Thereafter, the appointments will be for three-year terms.

15. A person may not serve more than two consecutive terms of office as a Board member.

16. If a Board member is unable to complete his term for any reason, the Minister will appoint a qualified individual to hold that position for the balance of the term.

**D. Location And Staffing Of Board**

1. The Automotive Regulatory Board will maintain easily-accessible offices and staff as determined necessary by the Board.

## III. LICENSING

### Overview

Issuance of a licence is the formal permission from a constituted authority to carry on a specified action. Provincial governments have the authority to regulate the operation of businesses in their jurisdictions. In Alberta, the Licensing of Trades and Businesses Act is the statute that applies to the majority of businesses in Alberta.

The objective of licensing is to create a better and fairer marketplace for both businesses and consumers. Licensing provides a mechanism to identify those businesses that interact with consumers within a specific marketplace. To obtain a licence, a business must meet specific operational standards for both opening and operating the business. Licensing is also a mechanism to ensure that businesses that compete with one another do so on a level playing field. It identifies fair business practices for that marketplace by codifying them in operational standards.

In the automotive marketplace, businesses and consumers play the game and the regulatory body applies the rules. When "the rules of the game" are clearly defined for all the players in a marketplace, each potential player decides whether or not he or she wishes to play that particular game knowing that the referee will impose penalties when infractions of the rules are discovered. Like in a hockey game, some participants will be superstars, some grinders, and some role players. Presumably each knew the rules they had to follow when the game started; if they did not, the referee educated them as they played. During the game, if they choose to break those rules, they will spend a lot of time in the penalty box, instead of out actually playing the game. The referee enforces the rules. The referee does not see all of the infractions in the marketplace and needs to rely on other people to help with the job.

When an objective third party issues a licence to a business, consumers can then have a cautious optimism about two things--that the licensed business should meet certain basic standards, and that the licensed business should deal with consumers fairly. When a business needs a licence in order to operate, the issuance of that licence also becomes a tool of enforcement. Businesses that do not comply with the basic operational standards can be taken to task, and their right to operate their business (their licence) can be suspended or withdrawn in the interests of consumers and other businesses. The constituted authority that issues the licence (for automotive businesses the Department of Consumer and Corporate Affairs), is responsible to ensure that the issuance of a licence remains meaningful.

Rules and regulations are merely the legal expression of the ethics by which fair businesses operate every day. The difficult task of any licensing program is ensuring that all businesses operate by the same basic standards.

### Background Information

In the automotive marketplace, there are businesses that act as "go-betweens" since they buy excess or unwanted vehicles from one car dealer and sell them to another dealer. If a motor vehicle sales business has five 1987 Ford Taurus' on its lot but only

wants to have three in stock, or has no 1988 Chevrolet Cavaliers but wants to have two, the business will often use the services of a wholesaler to get rid of its excess vehicles and to obtain the needed ones. These businesses are known as "wholesalers" or "brokers". These businesses also obtain some vehicles at auctions and from private individuals. They do not operate a car lot per se, but serve to distribute motor vehicles throughout the marketplace.

Wholesalers are involved only in business-to-business transactions. The Committee has learned that in actual practice some wholesalers buy and sell vehicles to businesses and consumers. These wholesalers often place classified ads for vehicles and since they do not operate a car lot they will sell the vehicle to the buyer from a private residence. They are then known as "curbers".

A "curber" is a person who operates a vehicle sales business from a private residence and (whether intentionally or not) gives the impression to the buyer that the vehicle was a privately-owned vehicle. Curbers are the bane of the automotive industry. Curbers bear few, if any, of the costs of operating a business since they do not pay business taxes, are not properly licensed, and are not operating from proper facilities in accordance with the zoning bylaws of the municipality. The consumer is at an immediate disadvantage since the curber begins the transaction on a false basis by representing himself as a private individual when he really is a businessman.

The Committee wants to put equivalent regulations on all businesses which sell motor vehicles. The Committee intends that "motor vehicle sales businesses" are those which sell to consumers, and "auto broker businesses" are those which sell to other businesses.

## A. Definitions Of Terms

### Overview

Words have different meanings for different groups. In this paper, certain terms have been defined for you because the Committee used those terms very specifically. Please refer to these definitions frequently throughout your review of this paper.

1. "Auto broker business" is a type of motor vehicle broker business and means an individual, partnership, or corporation who, whether on his own account or on the account of any other person, engages in the business of selling or leasing motor vehicles or recreation vehicles to another business.

2. "Automotive business" means a motor vehicle sales business, a motor vehicle broker business, or a motor vehicle service business.

3. "Automotive business agent" means a designated agent named by the automotive business in its licence application or licence renewal to represent the business in all matters related to its automotive business license.

4. "Automotive salesperson" means an individual who is employed by a motor vehicle sales business or a motor vehicle broker business to sell the goods or services of that business.

5. "Automotive leasing agent" means an individual who is employed by a motor vehicle sales business or an auto broker business to lease the goods or services of that business.

6. "Automotive recycler business" is a type of motor vehicle service business, and means an individual, partnership, or corporation who engages in the business of dismantling used or damaged vehicles in order to provide salvageable components or parts.

7. "Automotive salvage disposal business" is a type of motor vehicle broker business, and means an individual, partnership, or corporation who, whether on their own account or on the account of any other person, engages in the business of selling or offering for sale damaged motor vehicles for the purposes of rebuilding, recycling, or salvage.

8. "Automotive service or repair business" is a type of motor vehicle service business, and means an individual, partnership, or corporation who engages in the operation of a business through which a person can receive the repair, maintenance, conditioning, or inspection of a motor vehicle or a recreation vehicle.

9. "Consumer" means a person who contracts to receive goods or services that are partly or wholly for non-business use.

10. "Licence" means an automotive business licence issued under the Automotive Business Licensing Regulation, and it includes a renewal licence.

11. "Motor vehicle"
    - (a) means those types of motorized vehicles licensed to operate on Alberta roads as defined in the Highway Traffic Act,
    - (b) does not include trucks where the gross vehicle weight exceeds 15,000 lbs.,
    - (c) includes a recreation vehicle except where the two terms are clearly differentiated,
    - (d) the term "motor vehicle" applies even when the vehicle is damaged to the extent that it is useful only for the parts it contains; this type of vehicle is also known as a salvage vehicle,
    - (e) does not include off-highway vehicles, farm machinery, construction machinery, aircraft, maritime craft, vehicles that run only on rails, or vehicles as defined in the Off-Highway Vehicle Act.

**Intent**

The Highway Traffic Act defines a motor vehicle as

"(i) a vehicle propelled by any power other than muscular power, or
(ii) a moped,

but does not include a bicycle, an aircraft, a tractor whether equipped with rubber tires or not, an implement of husbandry or a motor vehicle that runs only on rails".

The Off-Highway Vehicle Act defines an off-highway vehicle as
"any motorized vehicle designated for cross-country travel on land, water, snow, ice, marsh or swampland or on other natural terrain and without limiting the generality of the foregoing, includes, when designed for such travel,

- 4-wheel drive or low pressure tire vehicles
- motorcycles and related 2-wheel vehicles
- amphibious machines
- all-terrain vehicles
- miniature motor vehicles
- snow vehicles
- minibikes
- any other means of transportation which is propelled by any power other than muscular power, or wind,

but does not include

- motor boats, or
- any other vehicle exempted by the regulations".

12. "Motor vehicle broker business" means an auto broker business or an automotive salvage disposal business.

13. "Motor vehicle sales business" means an individual, partnership, or corporation who, on his own account or on the account of any other person, engages in the business of selling or leasing a motor vehicle or recreation vehicle to a consumer, who advertises motor vehicles for sale or lease to consumers, or who operates a business through which a consumer is able to buy or lease a motor vehicle or a recreation vehicle.

14. "Motor vehicle service business" means an automotive service or repair business or an automotive recycler business.

15. To use "plain language" means
    (a) to use words with common meanings;
    (b) to arrange material in a logical order;
    (c) to divide the document into manageable chunks;
    (d) to lay out the document clearly; and
    (e) to choose with lettering that is easily legible.

16. "Recreation vehicle" means a portable dwelling unit that is designed to be used as accommodation for travel, recreation, or vacation purposes, and that
    a) forms part of a motor vehicle such as a van conversion or motorhome, or
    b) is placed on the chassis or body of a motor vehicle, such as a truck camper, or
    c) is capable of being transported on its own chassis and running gear by towing or other means, such as a travel trailer, fifth-wheel trailer, or tent trailer.

## B. Automotive Business

### Licenses

1. An automotive business must hold a licence issued under the Automotive Business Licensing Regulation.

**Intent**

A person who engages in an automotive business for benefits that can be valued in money (whether barter or an exchange of money actually occurs)

is providing goods and services to consumers, or providing goods and services that will ultimately reach consumers. Consumers expect that the same standards will be maintained by all automotive businesses, and licensing is the method by which marketplace standards can be enforced.

2. This regulation does not apply to the sale of motor vehicles by auction under the Public Auctions Act.

3. Liquidators and trustees in bankruptcy are exempted from the application of Licensing of Trades and Businesses Act and the Automotive Business Licensing Regulation.

   **Intent**

   Occasionally liquidators and bankruptcy trustees are required to sell vehicles on behalf of their clients. Since they are not in the business of selling vehicles, the Committee believed that they should be excluded from the application of this regulation.

4. The automotive business licence will be for a period of twelve months.

5. If a person carries on any type of automotive business from any location or mobile facility, the person must be properly licensed for each location or mobile facility.

   **Intent**

   Each location and mobile facility of an automotive business must meet an equivalent standard. This ensures that all businesses compete on the same minimum basis to provide fair competition and adequate consumer protection.

6. An automotive business will be classified on the licence according to the types of goods and services offered.

   **Intent**

   The businesses which operate in the automotive marketplace can be roughly divided into five types. Within each type there may be different classifications. For example, a collision repair shop and a radiator shop are both automotive service and repair businesses. Although all automotive businesses will have to follow the rules contained in this regulation, the special nature of a specific type of business may require certain additional rules for that type of business.

   Different but equivalent standards will exist for different classes of automotive business. Within each class, those businesses that compete with one another will be expected to adhere to the same standards.

7. An automotive business will be licensed according to the automotive business classifications. If the same classificiation of automotive business is offered at more than one location by the same person, partnership, or corporation, the automotive business will need a separate licence for each location at which the same classification is offered.

   **Intent**

   No advantage will exist for multi-location businesses over small businesses. The same standards and licence fees will be expected of each location at which consumers are able to transact business. At the same time, the Committee does not want to penalize a business for being unable to open

another classification due to lack of space.

Example:

Consumer Friendly Motors Inc. operates three classifications of business at their location: new vehicle sales, used vehicle sales, and a service and repair division. They wish to expand and open a collision repair division, but there is no room to expand at their present location. They can open a collision repair division in a building six blocks away. Their present licence will be amended to add the new classification. If they had wanted to open a second used vehicle sales division at a separate location, for example, a second and separate licence would be required.

8. The automotive business licence must be posted in a conspicuous public place at the automotive business.

**Intent**

The licence will mean specific protection for the consumer and should be easily visible to any consumer who deals with that business.

9. A license cannot be transferred, conferred, or given by anyone operating one automotive business to anyone operating another automotive business.

**Intent**

The purpose of a licence is to ensure that each person, partnership, or corporation which operates an automotive business must independently meet the requirements for the issuance of a licence. When the sale of a business occurs, the new owners must comply with the licensing requirements as if they were starting the business from scratch.

**Requirements for Licensing**

10. In its application for a licence, the automotive business must appoint an automotive business agent for each business location, and may name an alternate to act in the absence of the appointed agent.

**Intent**

The business must identify the person who will have the knowledge and the authority to resolve all matters regarding its licence. A separate person may be named for each location, or the same person may be responsible for several locations, but it must be clear to the Automotive Regulatory Board who the agent is for each automotive business location.

An automotive business must name an individual to be responsible to the Automotive Regulatory Board for the conduct of the business and its employees, for the handling of consumer complaints, and for dealing with inquiries from the Board. An automotive business agent must have the authorization of the business to resolve the matters in question on behalf of the business.

11. An automotive business must have municipal approval for each location or mobile facility at which it operates.

**Intent**

Local municipalities set their own rules for land use, zoning, and the operation of businesses within their boundaries. An automotive business must adhere to the requirements of both the municipality and the province.

DISCUSSION ONLY

12. An automotive business must set out in its licensing application a full description of the types of business it will carry on at each location.

13. When an automotive business begins to offer a product or service not described in its initial licence application, it must notify the Automotive Regulatory Board immediately to ensure that the proper licence is issued.

**Intent**

Each classification of automotive business will have specific standards that it must meet before being issued a licence. Depending on the type of business, some standards will be more exacting than others.

14. An automotive business must agree in its licence application and in any subsequent renewal of the licence to adhere to the standards for business operation contained in the regulation.

**Intent**

Adherence to certain basic standards is an inherent part of a licensing system. The acknowledgement of these standards and the commitment to uphold them on a licence application reinforces the applicant's awareness of the existence of the standards.

15. An automotive business must agree in its licence application to enter the arbitration process with a consumer when the consumer has choosen to resolve the complaint through arbitration.

16. An automotive business must provide proof that garage insurance coverage (also known as Standard Policy Form 4) is in effect for its business location before a license is issued or renewed. The business must maintain that insurance coverage for the term of the licence as a condition of holding the licence.

**Intent**

The Committee believes that it is in the consumer's best interest to ensure that a business carries appropriate insurance coverage. They believe that the minimum acceptable coverage is the standard garage automobile policy.

A standard garage automobile policy indemnifies the business and its employees against

- the liability for loss or damage arising from the ownership, use, or operation of any vehicles owned by the business,
- and for liability for loss or damage arising from the use or operation of customers' vehicles.

The garage policy does not cover loss or damage to the customer's automobile itself, but rather covers loss or damage caused by test driving the customer's vehicle. The policy protects business' vehicles against collision, as well as comprehensive and specified perils. It covers the customer's automobile for collision or upset and specified perils while it is in the care, custody, or control of the automotive business. It does not cover the customer's automobile for theft from an open lot or unroofed space which is owned, rented, or controlled by the business, except for the theft of the entire automobile.

Usually a garage insurance policy also specifies the maximum number of customers' automobiles to be covered on the policy. To be valid, the insurance policy has to be specifically issued by the insurance company for

the exact type of business or businesses being conducted by the policy holder.

17. An automotive business must employ the qualified journeymen tradespeople or indentured apprentices appropriate to the type of business being conducted. These requirements are outlined in the Manpower Development Act.

**Intent**

Only qualified individuals may be employed in certain automotive trades in Alberta. The criteria are laid out in the Manpower Development Act and its regulations. Quality automotive repair and service work is essential for consumer protection, and so the Committee believes that only qualified persons should perform that work.

18. Each prospective licensee must have on the premises or in the mobile facility the equipment that the Automotive Regulatory Board considers necessary for that type of automotive business. The following are considered to be the minimum equipment necessary to operate the following types of businesses:

General Motor Vehicle Repair Business *
- Mechanic's hand tools
- Current repair and labour manuals
- Hoist or pit to allow for work under vehicle
- Floor jacks
- Engine analyzing equipment
- Radiator pressure tester
- Waste oil containment
- Oxyacetylene welding equipment

* Requires a licensed technician

Specialty Repair Business - Muffler
- Mechanic's hand tools
- Oxyacetylene welding equipment
- Hoist or pit to allow for work under the vehicle

Specialty Repair Business - Transmission *
- Mechanic's hand tools
- Hoist or pit
- Transmission jacks
- Waste oil and fluid containment
- Current repair and labour manuals

* Requires a licensed technician

Specialty Repair Business - Tune-up *
- Mechanic's hand tools
- Engine analyzing equipment
- Current repair and labour manuals

* Requires a licensed technician

Specialty Repair Business - Radiator
- Mechanic's hand tools
- Waste antifreeze and acid containment
- Radiator test tank
- Welding equipment

Specialty Repair Business - Tire *
- Mechanic's hand tools
- Hoist or jacks to allow for wheel removal
- Tire changing equipment
- Tire test tank
- Wheel balancing equipment
- Tire repair equipment

* Requires a licensed technician

Specialty Repair Business - Auto Electric *
- Mechanic's hand tools

- Electrical testing equipment
- Current repair and labour manuals
  - Requires a licensed technician

Specialty Repair Business - Alignment •
- Mechanic's hand tools
- Wheel alignment equipment
- Balancing equipment
- Current repair, labour and specification manuals
  - Requires a licensed technician

Specialty Repair Business - Brake •
- Mechanic's hand tools
- Hoist or jacks to allow for wheel removal
- Current repair and labour manuals
- Brake component machining equipment
- Measuring equipment capable of measuring wear on brake components
- Waste fluid containment
  - Requires a licensed technician

Specialty Repair Business - Frame •
- Four-point anchoring system capable of holding vehicle during structural pulls
- Pulling equipment
- Measuring equipment capable of measuring structural dimensions including upper body dimensions
- Current frame dimension statistics
- Mechanic's hand tools
  - Requires a licensed technician

Specialty Repair Business - Air-Conditioning
- Mechanic's hand tools
- Air-conditioning test equipment
- Freon recovery unit
- Current repair and labour manuals
  - Requires a licensed technician

Auto Upholstery Business
- Mechanic's hand tools
- Industrial sewing equipment

Stereo and Accessories Business
- Hand tools

Lubrication Business
- Hoist or pit to allow for work under vehicle
- Mechanic's hand tools
- Waste Oil containment

Collision Repair Business •
- A manufactured paint spray booth which meets all current fire code requirements, Occupational Health and Safety (OH&S) standards, and municipal authority standards.
- An air compressor.
- Respiratory protection which meets current OH&S requirements.
- MIG (metal inert gas) welding equipment
- A four-point anchoring system to hold the vehicle in a stationery position during structural and body pulls, the system to be suitable for the type of vehicles being repaired
- A measuring device suitable for measuring symmetrical and asymmetrical unibody structural dimensions, including the upper part of the body
- Current frame dimension statistical information.
- A current set of collision estimating manuals.
  - Requires a licensed technician

Recreation Vehicle Service Business •
- Gas tester manometer
- Battery charger
- Floor jack
- Jack stands
- Air compressor
- Ladders
- Battery tester
- Bench grinder
- Board tester - fenwell

- Cut-off saw
- 1/2" drill
- Amp meter, multi-tester
- Vice
- Table saw
- Riveter
- Air staple gun
- Reciprocating saw
- Business vacuum
- Waterline crimping tool
- Router
- Trouble light
- Soldering gun
- First-aid kit
  - * Requires a licensed technician

Automotive Glass Repair Business
- Power cut-out knife
- Hand cut-out knife
- Seat covers and hood covers
- Hook tools and filler tools
- Belt sander or hand-held arrise machine
- Vacuum cleaner
- Technician's hand tools
- Split rivet tool and rivets
- Caulking guns
- Proper waste disposal system
- Cutting table
- Automotive cleaning products
- Optional:
  - Air compressor
  - Windshield repair equipment
  - Bench grinder and vice

Motorcycle Repair Business *
- mechanic's hand tools
- current repair and labour manuals
- engine analyzing equipment
- radiator pressure tester
- waste oil containment
- oxyacetylene welding equipment
  - * Requires a licensed technican

Cleanup and Detail Business
- high-pressure washing equipment
- carpet and upholstery shampooing equipment
- wet-dry vaccum
- power polishers and buffers.

**Intent**

When a business offers a product or service to the public, the consumer should be assured of a minimum yet safe level of product or service. The Committee found that certain basic equipment is necessary to do proper automotive servicing and repair on today's vehicles. For example, a specific type of welding equipment (a Metal Inert Gas or MIG welder) must be used to repair unitized frames on automobiles, since the other type of welding equipment will cause heat stress in the metal which could cause the frame to break apart in a collision.

19. An automotive business must provide all agreements, contracts, and warranties used in business transactions in plain language. The Automotive Regulatory Board will provide its licensses with a sample of a bill of sale and a work order in plain language.

**Intent**

"Plain language is concerned with communication. It enables documents to be clearly written and well-designed so that all members of the community affected by them can read them easily and understand their rights and obligations readily.

A plain language document is legally accurate and precise. It does not change or distort the impact of the original. It ensures that the expression of the law is clear and free from obscurity and convoluted language.

Plain language is a full version of the language, not a (shortened) form or type of basic English. Following the findings of recent research, it concentrates on those grammatical structures and words which are more widely and readily comprehended. It retains all necessary technical terms, but offers general readers explanations of them. Plain language is an economic necessity. Poorly written documents waste time, create confusion and misunderstanding, induce errors, and lead to inefficiencies in administration. The cost benefits of plain language to the community, business, and government are huge, as has been proved many times over in recent years.

The demand for plain language legislation in particular is not new. It is a demand that comes from the judiciary and from the legal profession as much as from the community at large". (Source of quote: Robert Eagleson, a plain language proponent from Australia).

20. An automotive business may be required to file financial information in a suitable form with the Automotive Regulatory Board if the business is under investigation, or prior to the issuance of a licence by the Automotive Regulatory Board.

**Intent**

The Automotive Regulatory Board will need the ability to investigate the financial stability of an enterprise before issuing an automotive business licence, or if the business is under investigation by the Board. For example, if an applicant is not financially stable, in the interests of protecting consumers a licence might not be granted.

21. When an automotive business engages in consignment sales, the business may be required to submit financial information to the Automotive Regulatory Board.

**Intent**

The Committee found that in the past, consignment dealers have been known to start up an automobile consignment business with no assets besides their ability as salespeople. They have been known to accept consumers' vehicles on consignment and proceed to use consignment (consumer) monies to operate their businesses, rather than safeguarding consignment monies until the consignor is paid in full.

22. When an automotive business engages in consignment sales, the business must maintain a trust account in a financial institution in Alberta.

**Intent**

The Committee believes that an automotive business engaged in

consignment sales needs a trust account to safeguard the consumers' monies. A business that offers consignment services acts as an agent between the buyer and the seller, and as such is handling the seller's money on their behalf. Both real estate agents and auction businesses also act as agents between buyers and sellers, and they are required by law to deposit the seller's monies into a trust account and not to withdraw any money for themselves until the seller is paid in full.

23. The automotive business engaged in consignment sales must disclose the name and address of the financial institution where the trust account is located, and must provide proof that the trust account has been established before a licence is issued or renewed.

**Licence Fee**

24. The annual licence fee for an automotive business will be $225 for the initial classification of business, plus $75 for each additional classification in which a licensee is operating.

**Compensation Fund Levy**

25. When an automotive business applies for its initial licence under the Automotive Regulatory Board, the business must pay a non-refundable compensation fund levy of $250 to the Automotive Consumers' Compensation Fund.

26. An automotive business will not be issued a licence if the compensation fund levy is unpaid.

27. An automotive business will not be assessed another compensation fund levy unless
    (a) its licence is revoked, suspended, expired, and it is reapplying for a licence, or
    (b) the Minister of Consumer and Corporate Affairs approves an extraordinary levy to replenish the Fund (see "IV. Compensation Fund").

**Licence Becomes Invalid**

28. A license becomes invalid when the automotive business is no longer carrying on business.

29. The automotive business licence must be returned immediately to the Automotive Regulatory Board when an automotive business ceases to carry on business, or when the licence is cancelled or suspended.

30. If the licence fees do not generate enough revenue to provide for the costs of operating the Automotive Regulatory Board, the Board may apply to the Minister of Consumer and Corporate Affairs for the approval to levy an additional fee on each licensee to provide sufficient operating funds.

## C. Automotive Business Agent

### Who Qualifies

1. An "automotive business agent" means a designated agent named by the automotive business in its licence application or licence renewal to represent the business in all matters related to its automotive business license.

**Intent**

An automotive business agent is the person named by the automotive business to be responsible for the activities of the business in relation to its licence. This person would be able to answer all questions or concerns of consumers and of the Automotive Regulatory Board.

### Requirements for Appointment

2. Before the Automotive Regulatory Board will approve a licence application or renewal, the person named by the business for the role of automotive business agent must
   (a) qualify for the role of automotive business agent, and those qualifications will be specified by the Automotive Regulatory Board
   (b) have agreed in the licence application or renewal to abide by the standards of business operation established for automotive businesses in the governing regulation.

**Intent**

An automotive business agent must be knowledgeable about the standards of business operation to which the business must adhere, and about various consumer protection statutes currently in effect (the Unfair Trade Practices Act and the Consumer Credit Transaction Act are two examples). Since the agent is responsible for the conduct of the business' employees, he must have enough knowledge to properly instruct the employees.

3. An automotive business agent for a licensed automotive business must have a knowledge and understanding of the following:

| | Businesses Involved In Sales | Businesses Offering Service and Repair |
|---|---|---|
| Automotive Business Licensing Regulation | • | • |
| Unfair Trade Practices Act | • | • |
| Consumer Credit Transactions Act | • | |
| Sale of Goods Act | • | • |
| Basic contract law | • | • |
| Manpower Development Act | • | • |
| Personal Property Securities Act | • | • |

4. The automotive business is responsible for the actions and conduct of the automotive business agent in all matters related to its automotive business licence.

**Intent**

The business and the agent are each responsible for the conduct of the other in the matters related to the automotive business licence.

5. The automotive business agent must notify the Automotive Regulatory Board immediately when the automotive business discontinues operations.

6. The automotive business agent must notify the Automotive Regulatory Board immediately when he or she leaves the employ of the automotive business for which he or she is the agent.

**Licence Fee**

7. The appointment of an automotive business agent is part of the procedure for obtaining the business licence. There is no separate licence issued for the agent, nor is there an additional licence fee charged.

## D. Automotive Salesperson

A motor vehicle or a recreation vehicle is the second most expensive purchase that a consumer ever makes. The price of vehicles has increased substantially in the past twenty years, and the technological sophistication of vehicles has also changed dramatically. A salesperson is the individual from whom most customers obtain almost all of their information about their planned vehicle purchase.

The Committee believes that a salesperson in the automotive marketplace needs more than just a good sales technique to serve consumers well. A salesperson also needs to understand their legal and ethical responsibilities to consumers. The automotive sales marketplace has acquired a bad reputation through the years, and the Committee believes that requiring salespersons to meet certain basic standards of knowledge is necessary. The Committee believes that licensing salespeople in the automotive industry is one way of achieving a higher level of professionalism and consumer confidence.

**Who Qualifies**

1. An "automotive salesperson" means an individual who is employed by a motor vehicle sales business or auto broker business to sell motor vehicles or recreation vehicles.

**Intent**

Motor vehicles and recreation vehicles are expensive consumer purchases. The consumer often obtains most of his information about a vehicle from the salesperson at the automotive business. The automotive business salesperson is usually paid on a commission based on a percentage of sales. Often salesmanship techniques are emphasized in sales training to the detriment of the consumer, and ultimately to the detriment of the business.

Salespersons who are knowledgeable about their product plus about unfair trade and advertising practices are more likely to treat consumers fairly than are those who are only interested in closing the sale.

Licensing automotive salespersons will ensure that they have been tested on their knowledge of trade and advertising regulations in this province.

2. A person may act or hold themselves out as an automotive salesperson in Alberta, whether directly or indirectly, only if that person is
   (a) qualified as an automotive salesperson,
   (b) employed and sponsored as such by a licensed automotive business, and
   (c) licensed as a salesperson for the business which employs him.

   **Intent**

   A person who wishes to become an automotive salesperson in Alberta will need to meet some requirements to do so. The person must pass a qualifying exam, be employed by a licensed automotive business and be sponsored by its automotive business agent, and obtain a licence as a salesperson for that automotive business. The salesperson's licence is issued to that person as an employee of a specific business. For example, Jane Smiley's licence as a salesperson is issued to her as a salesperson for Consumer Friendly Motors Inc. If she quits working there, she must obtain an amended licence as an employee of Satisfaction Guaranteed Motors Inc.

3. The application to be licensed as an automotive salesperson of the automotive business must be sponsored by the automotive business agent of the business for whom the salesperson works.

   **Intent**

   The automotive business agent of a motor vehicle sales business or an auto broker business is responsible for the conduct of all personnel employed by the business. Salespersons who work at the business must have the sponsorship of the agent registered at the Automotive Regulatory Board.

4. The automotive business agent must register sponsorship of an automotive salesperson with the Automotive Regulatory Board.

   **Intent**

   The automotive business agent is responsible for ensuring that each salesperson employed by the business is properly sponsored and licensed by the Automotive Regulatory Board.

5. The licence of the salesperson is issued jointly to the salesperson and the automotive business for which the salesperson works.

   **Intent**

   Since the automotive business is responsible for the conduct of its salespersons, the licence (or the right to act as a salesperson) must be issued jointly to the salesperson and the automotive business. The issuance of that licence means specific protection for a consumer in the consumer's dealings with a salesperson. The cost of this protection is borne by the business in its compensation fund levy and licence fees, therefore it must have the ultimate responsibility for the actions of its employees and representatives.

If a salesperson turns out to be a "bad apple" and is fired by the automotive business, the Committee did not want that salesperson to retain any kind of licence in his possession that might mislead consumers. Nor did the Committee want the automotive business to be responsible for transactions that a salesperson might enter into on his own time. The salesperson is only authorized to sell motor vehicles as a representative of a licensed automotive business, not on his own account. This is also the system used in the real estate marketplace.

6. The Board will keep a register of the current sponsorship of each automotive salesperson.

**Requirements for Licensing**

7. A person who wishes to be employed as an automotive salesperson must write and pass a salesperson's qualifying examination with a grade that is satisfactory to the Automotive Regulatory Board. The person must become employed as an automotive salesperson within 24 months of passing the exam or must write another qualifying exam.

**Intent**

The Committee believes that once a salesperson has become qualified under the Automotive Regulatory Board, no more than a two-year period in which he is not actively employed and licensed in the industry should go by, or the salesperson will have to rewrite the exam. If the person is employed as a salesperson and a new regulation comes into effect, they will learn about it during the course of their employment. If they are not active in the industry, they will not be aware of the new requirements.

8. In the application for a licence as an automotive business salesperson and in each annual renewal, a person must
   (a) be qualified to hold the licence, and those qualifications will be established by the Automotive Regulatory Board, and
   (b) agree to abide by the standards for business operation established for automotive businesses in the governing regulation, and
   (c) pay the applicable fee.

9. The Automotive Regulatory Board may grant an exemption from the examination requirement to a person who has been issued a licence as an automotive salesperson within the preceding 24 months.

**Intent**

The qualifying exam will test the salesperson's knowledge of trade and advertising regulations in Alberta. The Committee felt that anyone not actively employed by an automotive business for more than a two-year period should need to rewrite the qualifying exam. Also if the salesperson's licence is suspended or revoked by the Automotive Regulatory Board or if the licence has expired, the salesperson may be required to rewrite the qualifying exam.

DISCUSSION ONLY

10. An automotive business agent must notify the Automotive Regulatory Board immediately when an automotive salesperson leaves the employ of an automotive business so that the sponsorship register will reflect the change, and must return that salesperson's licence to the Automotive Regulatory Board.

**Licence Fee**

11. The licence fee for an automotive salesperson will be $75.

12. The fee for transferring the salesperson's licence to the new sponsor will be $25.

## E. Automotive Leasing Agent

The automotive leasing agent is the person from whom a consumer obtains almost all of their information about the conditions of that lease. A leasing agent must have a certain basic standard of knowledge in order to serve the customer well. The Committee belives that the licensing of leasing agents was as important as licensing salespersons.

**Who Qualifies**

1. An "automotive leasing agent" means an individual who is employed by a motor vehicle sales business or an auto broker business to lease motor vehicles.

2. A person may act or hold themselves out as an automotive leasing agent, whether directly or indirectly, in Alberta only if that person is
   (a) qualified as an automotive leasing agent,
   (b) employed and sponsored as such by a licensed automotive business, and
   (c) licensed as an automotive leasing agent for the business which employs him.

   **Intent**

   Automotive leases are complicated contracts. The Committee has found that, in the past, consumers entering lease contracts are not fully aware of their obligations and liabilities under the contract. Plain language contracts will solve part of that problem. Ensuring that the leasing agent who deals with the customer meets a certain basic level of knowledge will solve the other part of the problem. The Automotive Working Committee wants the licensed leasing agents to have an awareness of unfair trade practices and unfair advertising practices with regards to leasing motor vehicles.

3. The application to be licensed as an automotive leasing agent of the automotive business must be sponsored by the automotive business agent of the business for whom the leasing agent works.

4. The automotive business agent must register sponsorship of an automotive leasing agent with the Automotive Regulatory Board.

5. The licence of the automotive leasing agent is issued jointly to the leasing agent and the automotive business for which the leasing agent works.

6. The Board will keep a register of the current sponsorship of each automotive leasing agent.

**Requirements for Licensing**

7. A person who wishes to be employed as an automotive leasing agent must write and pass a leasing agent's qualifying examination with a grade that is satisfactory to the Automotive Regulatory Board. The person must become employed as a leasing agent within 24 months of passing the exam or must write another qualifying exam.

8. In the application for a licence as an automotive leasing agent licence and in each annual renewal, a person must
   (a) be qualified to hold the licence, and those qualifications will be established by the Automotive Regulatory Board, and
   (b) agree to abide by the standards for business operation established for automotive businesses in the governing regulation, and
   (c) pay the applicable fee.

9. The Automotive Regulatory Board may grant an exemption from the leasing agent's examination requirement to a person who has been issued a licence as a leasing agent within the preceding 24 months.

10. An automotive business agent must notify the Automotive Regulatory Board immediately when an automotive leasing agent leaves the employ of an automotive business so that the sponsorship register will reflect the change, and the automotive business agent must return that leasing agent's licence to the Automotive Regulatory Board.

**Licence Fee**

11. The licence fee for an automotive leasing agent will be $75.

12. The fee for transferring the leasing agent's licence to a new sponsor will be $25.

## F. Qualifying Examinations

1. The applicant for a licence as a licensed automotive salesperson or automotive leasing agent must pass a qualifying exam. A person may write that exam more than once, but must pay the examination fee each time.

**Intent**

The Committee believes that a person should be allowed to attempt to pass an exam as often as he or she wishes. The Board should ensure that the candidate is serious about obtaining the qualifications. Charging the exam fee each time will ensure that there are few frivolous candidates and will streamline the administrative procedures.

2. The fee for a salesperson examination and the fee for a leasing agent examination will be $100 per sitting.

3. The pass mark for the exam is set at 60%.

**Intent**

The Committee did not want salespersons or leasing agents to be intimidated by the thought of taking an exam.

4. The Automotive Regulatory Board will offer the qualifying exam monthly.

5. If a licence has been cancelled, suspended, or more than 24 months has passed since the licence expired, the applicant for a salesperson's licence or leasing agent's licence must write the applicable examination and pass that examination with a grade of 60% or more.

6. The Automotive Regulatory Board may require an automotive salesperson or an automotive leasing agent to write the qualifying examination as a prerequisite for continuation or renewal of any licence.

**Intent**

If the Automotive Regulatory Board has reason to be concerned about the performance of a certain salesperson or leasing agent, the Committee believes that they should have the ability to require that person to rewrite a qualifying exam.

## G. "Grandfathering Provisions"

**Overview**

Licensing of automotive businesses is currently administered directly by Alberta Consumer and Corporate Affairs. The Working Committee needed to recommend a way to handle smoothly the transfer of the licensing responsibility to an Automotive Regulatory Board. The businesses currently licensed under the old regulation will need to be licensed under the new regulation, and that process should be as easy as possible.

For example, if an Automotive Regulatory Board assumed the responsibility for the licensing of automotive businesses on January 1, 1992, those businesses properly licensed by the Automotive Regulatory Board by January 31, 1992 will be eligible for these "grandfathering" provisions. The businesses will have to meet the requirements in the new regulation, but they will be able to name the automotive business agent, salespersons, and leasing agents that will be authorized to work for them under the new requirements. The persons named on the first business licence will not have to write a qualification exam unless they change employers.

**Automotive Business**

1. Each automotive business must complete a licence application, comply with the licensing requirements for each classification of business in which it operates, and pay the compensation fund levy and licence fees appropriate to its classifications of automotive business, within 30 days of the date the Automotive Regulatory Board takes over the responsibility for licensing from Alberta Consumer and Corporate Affairs.

**Initial Automotive Business Agent**

2. An automotive business which obtains a licence within the first 30 days after the date the Automotive Regulatory Board takes over the licensing responsibility will be allowed to appoint its initial automotive business agent.

3. This initial automotive business agent appointee is exempted from the qualification requirements that are necessary under the new regulation.

4. The person appointed as automotive business agent may only act in that capacity with the automotive business which appointed him or her.

5. If the person appointed as automotive business agent changes jobs to work at another automotive business, that person must meet the qualification requirements outlined in the new regulation for his or her new job.

**Initial Automotive Salespersons and Leasing Agents**

6. An automotive business which obtains a licence within the first 30 days after the date the Automotive Regulatory Board takes over the licensing responsibility will be allowed to designate
   (a) the automotive salespersons
   (b) the automotive leasing agents
   that it will sponsor under its initial Automotive Regulatory Board licence.

7. The persons designated as automotive salespersons or leasing agents under the initial licence are exempted from the qualification requirements that are necessary under the new regulation.

8. The persons designated as automotive salespersons or leasing agents under the initial licence may only act in the capacity for which they were designated and only for the automotive business which designated them.

9. If a person designated as a salesperson or leasing agent changes jobs to work at another automotive business, that person must meet the qualification requirements outlined in the new regulation for his or her new job.

10. To avoid financial hardship for a salesperson or leasing agent, the Automotive Regulatory Board may authorize the salesperson or leasing agent to work under the conditional sponsorship of the new employer's automotive business agent, but the authorization is conditional on the salesperson or leasing agent writing and passing the next scheduled qualification examination.

## H. Standards For Business Operation

**Overview**

Basic operational standards for automotive businesses ensure consumer protection, and also ensure that businesses compete with one another on an even footing. The "Standards for Business Operation" are an essential part of this recommendation for a licensing program. The licence represents permission from the Automotive

Regulatory Board to operate that business. Permission is given on the condition that the business agrees to operate at or above a certain minimum standard. The Committee believes that the "Standards for Business Operation" have codified the standards and practices by which most automotive businesses operate each day. An automotive business agrees in its licence application to operate by the standards laid out in this regulation. Businesses that are operating outside of these standards will be revealed in three ways:

- through consumer complaints,
- through information provided by fellow businesses, and
- through investigations by representatives of the Automotive Regulatory Board.

An automotive business agent must understand what these business standards are and must ensure that the business and its employees abide by them. Motor vehicle sales businesses and auto broker businesses must employ only qualified salespersons and leasing agents. Those qualifications include knowledge of the standards of business operation established by the Automotive Regulatory Board.

**Standards of Conduct for Automotive Businesses**

General Standards

1. The automotive business must comply with all federal and provincial laws, and specifically with the provisions of Alberta's Unfair Trade Practices Act and Consumer Credit Transactions Act, and with the federal Competition Act.

   **Intent**

   The Committee believes that the Automotive Regulatory Board should have the ability to suspend the business licence of a business who has been guilty of an offence under other legislation. The Board may choose not to suspend the licence but needs to have that ability in the interest of consumer protection.

2. The automotive business will be responsible for all of the representations they have made to consumers about their products or services.

3. The automotive business must not use misleading sales or advertising techniques.

4. The automotive business must not alter the odometer of a motor vehicle.

5. Before accepting a consumer's deposit toward a purchase or service, the automotive business must provide the consumer with a written explanation of the conditions under which the deposit will be returned. The written explanation must be signed by the consumer to show that the conditions are understood.

   **Intent**

   The Committee learned that many of the complaints received by Alberta Consumer and Corporate Affairs were regarding a misunderstanding between the business and the consumer about the conditions under which a deposit would be returned. The Committee believes that both the business and the consumer would be better protected if the conditions for acceptance or return of a deposit were specified in writing and in plain language.

6. All agreements, contracts, and warranties used in business transactions must be in plain language. Plain language is clear, readily-understandable language using words with common, everyday meanings.

7. All agreements, contracts, and warranties used in business transactions must show the legal name of the automotive business and its Automotive Regulatory Board licence number.

**Intent**

The Committee believes that anyone who contracts business with a licensed automotive business is entitled to know the legal name of the business with whom they are dealing. A trade name or trade style such as " Traders Trucks" does not tell the customer that the business is really owned by 909090 Alberta Ltd. The customer has a right to know the true identity of the business owner, and whether or not that business is licensed under the Automotive Regulatory Board.

8. An automotive business must keep a record in Alberta of all its business transactions. The business must keep those records for a period of at least two years following the date the transaction took place, whether or not the automotive business ceases operations within that two-year period.

9. The automotive business must make every effort to directly resolve all consumer automotive complaints.

10. All automotive business contracts must contain the question "were any promises made to you that are not written on this contract?", and the consumer must specifically answer that question and sign in that area of the contract.

**Intent**

The Committee found that the phrase "ensure all verbal agreements are in writing", or similar phrases, still had not reduced the number of complaints that arose between a consumer and a business about verbal promises. The Committee believes that if that consumer had to specifically stop and answer a question worded like this, they would be more apt to think about whether a salesperson had promised them a new set of tires or not. If the salesperson had promised the tires, the consumer would need to get that promise in writing before proceeding further. If no verbal promises had been made, and the consumer signed the contract to that effect, the business would be better protected against a disgruntled consumer returning later claiming that these promises had been made.

11. If a licensed automotive business arranges any service or repair work done on a motor vehicle, and if that work comes under the provisions of the Manpower Development Act, that service and repair work must be performed by an automotive business properly licensed as a motor vehicle service business.

**Intent**

The Committee found that most automotive businesses want the licensing authority to make sure that all other automotive businesses are licensed. One of the ways to do this is to require each licensed business to only have automotive work done at another licensed automotive business.

In the case of service and repair, the Manpower Development Act requires that specific qualified tradespeople perform the work on motor vehicles, recreation vehicles, and motorcycles, including work on motor vehicle bodies and collision-damaged vehicles. The Committee believes that having qualified persons perform the work on consumers' vehicles is essential for consumer protection. If a part-time, hobby, or "backyard" mechanic wishes to operate a part-time business, that person will have to meet the same qualifications as the full-time automotive business. Other automotive businesses will be expected to have automotive repair and service work done at those businesses that have met the minimum standards necessary to be licensed by the Automotive Regulatory Board.

12. Where an automotive business repairs a written-off vehicle, it must pass the inspection required under the Inspection of Written-Off Vehicle Regulation prior to resale.

13. If an automotive business, excluding a salvage disposal business, is aware that a vehicle has been damaged sufficiently to require inspection under the Inspection of Written-Off Vehicles Regulation, it must have passed that inspection prior to resale.

14. If an automotive business, excluding a salvage disposal business, sells a previously written-off vehicle to anyone other than a licensed automotive business and the vehicle being sold has not passed the inspection under the Inspection of Written-Off Vehicles Regulation, it will be grounds for reviewing the automotive business licence.

Standards for Recreation Vehicles Sales

15. Where a recreation vehicle is made up of a chassis and a superstructure of different model years, both model years must be specified on the sales contract.

**Intent**

The Committee found that a recreation vehicle is often a combination of a chassis and a super structure of two different model years. For example, a recreation vehicle manufacturer may receive a 1990 van chassis and build a 1991 superstructure on it. In the recreation vehicle industry, this happens frequently the consumer should be made aware it.

16. Any motor vehicle sales business selling a recreation vehicle converted from a van must advise the consumer that the model year of the unit is that of the van alone. Consumers may be advised of the model year of the conversion package, but it must be clearly explained that, for registration purposes, only the model year of the van is used.

Standards for Motor Vehicle Sales

17. New cars and new light trucks displayed for sale by motor vehicle sales businesses must have the manufacturer's suggested retail price (m.s.r.p.) affixed to the vehicle. This price must itemize all accessories and options of that vehicle plus freight and delivery charges.

**Intent**

The manufacturers and importers of new cars and new light duty trucks

have established a "manufacturers' suggested retail price" for each model that they offer. The Committee found that most consumers want this information made available to them so that they can make informed comparisons when shopping for a new vehicle. To be useful to a consumer, that price must be broken down to its various components such as the vehicle's accessories, options, freight charges, and delivery charges. A consumer is then able to compare the prices suggested by the manufacturer with those offered by the businesses at which they are shopping.

18. The price of a new motor vehicle must be posted on the vehicle. Where a manufacturer's suggested retail price (m.s.r.p.) is not available, or not available in $CAN, the price of the new vehicle must itemize all accessories and options of the vehicle plus freight and delivery charges.

**Intent**

Recreation vehicles tend to be manufactured as individual units, not like automobiles on an assembly line where thousands of identical vehicles are produced. Many recreation vehicles are imported from the United States. Most R.V. manufacturers will identify a "manufacturer's suggested retail price" for a unit, but because the units are produced individually and because of the fluctuation in the Canadian dollar, that U.S. "manufacturers' suggested retail price" may vary from unit to unit when translated into Canadian dollars.

Each new vehicle offered for sale by an automotive business must have the price posted on the vehicle with all accessories, options, freight charges, and delivery charges itemized.

19. When the term "manufacturer's suggested retail price" is used by an automotive business, the price so identified must be the manufacturer's suggested retail price.

20. If the business knows that a motor vehicle
    (a) had previously been used as a police vehicle, courier vehicle, bus, or taxi
    (b) had ever been in an accident that had rendered it structurally unsafe,
    (c) had been written-off by an insurance company, and then repaired, or
    (d) had been subject to more than $5,000 worth of damage,

    then when the business offers that vehicle for sale those facts plus the year, make, model, serial number, and odometer reading must be disclosed to the consumer in a written statement posted on the vehicle.

**Intent**

An automotive business is in a better position than a consumer to recognize the condition or previous use of a motor vehicle. The person buying that vehicle must have access to all material facts about it, and the Committee has found that these four pieces of information are important to the future condition and use of a vehicle.

21. Every bill of sale for a used motor vehicle or a used recreation vehicle must include the statement: "This vehicle was mechanically inspected: _____ yes ____ no." If the bill of sale indicates "yes", an Automotive Regulatory Board-approved mechanical inspection certificate completed by a licensee of the Automotive Regulatory Board must be given to the purchaser with the bill of sale.

**Intent**

Neither a motor vehicle sales business nor an automotive business salesperson should make any statements about the soundness, roadworthiness, or mechanical condition of a vehicle unless they can back them up with independent proof. If they do not make statements about the mechanical condition of the vehicle, then it is the consumer's responsibility to verify the condition of the vehicle by having the vehicle independently inspected by a licensed mechanic, or to accept the consequences and possible expense of not doing so.

The Committee does not expect sellers to sell just perfectly sound vehicles. It expects sellers to disclose what they know about a vehicle, and it expects consumers to accept the responsibility for finding out about the vehicle before they buy.

22. The automotive business is financially responsible for ensuring that each vehicle it sells to consumers is
    (a) free of liens, and
    (b) not a stolen vehicle.

23. A motor vehicle sales business will be able to choose whether or not to offer a warranty on a used motor vehicle. When the dealer offers a warranty, then it must be in writing and in plain language, and the things the warranty does not cover must be clearly stated.

24. The automotive business must hold deposits under trust conditions.

Standards for Salvage Disposal Sales

25. A salvage disposal business must only sell motor vehicles to licensed automotive businesses.

**Intent**

A "salvage disposal business" is one which will buy vehicles that insurance companies have determined are too expensive to repair compared to the book value of the vehicle. The insurance company then "writes-off" the vehicle (pays the insured owner the book value of the vehicle as settlement of the claim; the insurance company now owns the damaged vehicle). The vehicles may not be totally unsalvageable however, since a relatively minor accident may "write-off" an otherwise sound ten-year-old car. Though economically unfeasible for the insurance company to repair on behalf of the former owner, the vehicle may have value for another consumer. Salvage disposal businesses buy these damaged vehicles from insurance companies and sell them to others with the wherewithal to repair them.

Standards for Consignment Sales

26. An automotive business which sells motor vehicles by consignment must deposit consignment monies at once into a trust account in a financial institution in Alberta.

27. The automotive business must
    (a) pay out to the consignor the money held in the trust account within 21 days after the sale of consigned goods, and
    (b) not withdraw from the trust account any commissions due from the consignor until it complies with clause (a).

28. An automotive business which sells motor vehicles on consignment must give the consignor a copy of the consignment agreement at the time the vehicle is left in the possession of the automotive business. The consignment agreement must set out in plain language the terms and conditions of the consignment transaction.

29. If an automotive business accepts a vehicle to sell on consignment, and calculates the consignment fee as a percentage of the selling price of the consignment vehicle, then a copy of the bill of sale for that vehicle must be given to the consignor when the consignor receives his monies.

Standards for Leasing Vehicles

30. An automotive business which leases vehicles must disclose to the person who leases the vehicle
    (a) the total amount of any payment due at the beginning of the lease,
    (b) the number, amount, frequency, and due dates of scheduled payments during the lease,
    (c) whether the person has the option to purchase the vehicle, when, and at what price,
    (d) what penalties apply to early termination of the lease, and
    (e) the amount or method of determining any liabilities the person may have at the end of the lease.

31. Before a vehicle lease contract is signed, the automotive business must give to the person who leases the vehicle a written, plain language explanation of
    (a) the person's responsibility for maintenance and repair of the leased vehicle in accordance with the manufacturer's recommendations, and the person's liability for poor maintenance and replacement of related wear items,
    (b) the maximum mileage a leased vehicle may accumulate during the term of the lease, the rate charged for any excess meterage or mileage, and any other associated costs,
    (c) the person's liability in the event of an early termination of the lease, and
    (d) any liabilities not outlined above that the person has under the lease contract.

Standards for Businesses Providing Automotive Service and Repair

There are many types of automotive service and repair facilities. There are ten major systems in operation in a vehicle: electrical, lubrication, cooling, suspension, transmission, braking, steering, exhaust, tires, and fuel. There are businesses which provide repairs and service for all of these systems.

In addition, there are businesses that repair and service the outside body of the vehicle, and the interior driver and passenger compartment. There are a number of different kinds of businesses that provide repair and service to the vehicle's body, glass, upholstery, and so on.

32. Before service or repair work is performed on a motor vehicle, the automotive business must disclose to the consumer that the vehicle parts replaced during servicing will be available for inspection by the consumer. Those parts will be returned to the consumer if requested, provided that the automotive business does not have to return those parts to the manufacturer under warranty, or to a remanufacturer for rebuilding.

33. An automotive business providing service and repair must provide a minimum 5,000 km/90-day written warranty, whichever occurs first, against defects in supplied materials and workmanship. The items the automotive service and repair business does not want to cover in a warranty must be specified in plain language.

34. An automotive service and repair business must charge an insurance company acting on behalf of a consumer the same amount for parts or repairs as if the consumer were acting alone.

35. An automotive service and repair business must post in a prominent, public location the rates charged for its services.

36. When operating automotive businesses to which the Manpower Development Act applies, the employment of the appropriate journeymen tradespeople and indentured apprentices is a condition of holding an automotive business licence.

37. Automotive service and repair businesses are responsible for the representations made by their mechanics, service writers, and estimators.

38. If deposits are taken prior to repair or service work being done on a motor vehicle or a recreation vehicle, then those deposits must be administered under trust conditions.

39. If service or repair work, including warranty work, is done on a vehicle, then a copy of the work order must be provided to the customer.

40. Before beginning a repair, an automotive business must disclose to the customer what type of replacement motor vehicle parts will be used in the repair, specifically whether the replacement parts are
    (a) manufactured by the original equipment manufacturer (OEM parts),
    (b) manufactured by an after-market manufacturer,
    (c) reconditioned or remanufactured parts, or
    (d) used parts.

    **Intent**

    The quality of repairs done to a vehicle will affect its future value. Consumers should know what type of replacement parts are used on their vehicles. Original equipment manufacturer (OEM) parts are supplied by the vehicle manufacturer as replacement parts and they are identical to the part or component used to build the original vehicle. For certain repairs, some manufacturer's new vehicle warranties require the use of OEM parts or the warranty becomes void. After-market parts are built by other companies to the same specifications as the original part. Reconditioned and remanufactured parts are parts salvaged from other vehicles that are then reconditioned by a rebuilder to be used again. Used parts are taken from other vehicles, cleaned and reinstalled in other vehicles.

Aftermarket parts, reconditioned and remanufactured parts, or used parts provide an economical alternative to OEM parts, however the warranties on these parts will vary and may not be the same as the warranties on OEM parts.

Estimates

41. An automotive business engaged in service or repair work must provide to a consumer upon request, a written estimate outlining the work to be performed and the charges for that work.

42. If there is a charge for an estimate, the consumer must be advised before the estimate is performed.

43. The charge for an estimate must be posted in a prominent public location at the automotive business.

44. A written estimate must clearly state the expiry date of that estimate.

**Standards of Advertising for Automotive Businesses**

General Advertising Standards

45. The Automotive Regulatory Board licence number must be included in each advertisement of an automotive business produced in printed form.

46. When a specific product or service is advertised, it must be in stock or available in sufficient quantity to meet reasonable demand at the time the advertisement is placed.

47. If there is a limited quantity of advertised products or services available at an advertised price, that number must be clearly disclosed in the advertisement.

48. A vehicle, product, or service must not be advertised if it is not available at that price.

49. An advertisement must not state nor imply that a warranty exists if it does not.

50. An advertisement must not include the word "wholesale", which means the price at which a businessperson buys a product in order to sell it to the public or for the purpose of resale.

51. An advertisement must not include the words or phrases "take over payments" or "repossession" unless they are in fact true.

52. An automotive business must not make an implication in an advertisement that favourable or specific credit terms are available unless they are equally available to all persons on approval of credit.

53. If an advertised product or service can be purchased at a discount or lesser price without equipment, options, accessories, products, other merchandise, or services then those things must not be described as "free" in an advertisement.

54. Any advertised statements about vehicles, and offers of vehicles, must be clearly set forth and based upon facts. In particular, all statements as to the year, make, model, type, condition, equipment, mileage, price, finance charges, and other terms must be clearly stated and based on facts.

55. Any advertised statements about products or services, and offers of products or services, must be clearly set forth and based upon facts. In particular, all statements as to identification, condition, equipment, comparisons, price, finance charges, and other terms must be clearly stated and based on facts.

56. Advertising done by an automotive business must not include such terms as "our prices are guaranteed lower than elsewhere", "lowest price guaranteed", "we guarantee to sell for less", "we give $x more in trade than any other dealers", "write your own deal", "name your own price", "name your own monthly payments", or similar statements unless the automotive business systematically monitors competitors' actual selling prices and can substantiate the claims.

57. When the term "manufacturer's suggested retail price" is used in an advertisement by an automotive business, the price so identified must be the manufacturer's suggested retail price.

58. An automotive business may not use these terms: "cost plus $x," "$x over invoice price", "at cost below invoice", or the like, since the actual net cost to an automotive business is dependent on a number of variables not necessarily known to the public.

59. All restrictions or disclaimers in advertisements by an automotive business must be in plain language and easily readable.

60. An automotive business which places electronic advertisements with restrictions or disclaimers must also print the restrictions or disclaimers to those advertisements in the local newspapers.

Advertising of Motor Vehicles

61. If a specific vehicle is advertised for sale or lease, then it must be in stock and available for sale or lease at the time the advertisement is placed.

62. If a specific vehicle is advertised for sale or lease, then the stock number must be included in the advertisement.

63. When advertised for sale, a vehicle which was previously used as a taxi, police vehicle, courier vehicle, or bus must be identified as such in the advertisement.

64. An automotive business must adhere to the Consumer Credit Transactions Act as it applies to the advertising of vehicles for sale or lease. The aggregate total price of the financing transaction and the total of any "cash" price must be prominent in the price advertisement, and easily readable.

65. An advertisement by an automotive business must not offer a specific trade-in allowance for a used vehicle.

66. "Manufacturer's suggested retail price", "suggested list price", "list price" and similar terms may be advertised by a motor vehicle sales business for informational

purposes and for comparison with the motor vehicle sales business' actual selling price, provided the business does not make any reference to a "savings", "discount", "special", or "percentage off" or by any other words of similar meaning, unless that business or other businesses have sold a reasonable number of the advertised vehicle at the manufacturer's suggested list price.

67. An advertisement by an automotive business for a used vehicle must not make any reference to savings. Reference to a previously-advertised price may be made provided the automotive business had placed an advertisement for that specific vehicle immediately preceding the sale on a regular basis for a reasonable period of time.

Advertising of Recreation Vehicles

68. No recreation vehicle may be advertised as designated for winter use unless the extent of this winterization is clearly specified and defined in the advertisement.

69. An automotive business may not advertise nor sell a new recreation vehicle unless it is constructed in accordance with the requirements of the Canadian Standards Association (CSA).

70. Any used recreation vehicle advertised as CSA-approved must in fact be CSA-approved, and carry the appropriate CSA sticker.

Advertising of Lease Vehicles

71. All leases must be advertised in conjunction with the Consumer Credit Transactions Act.

## I. Inspection Of Automotive Businesses

1. The Automotive Regulatory Board may direct its representative to inspect an automotive business facility to ensure compliance with Automotive Regulatory Board regulations.

2. When an inspection is completed, a copy of the inspection report must be left with the automotive business agent.

3. The Automotive Regulatory Board will review the inspection report to ensure compliance with the regulations.

4. If deficiencies are revealed by an inspection, a licensee will have a maximum period of sixty days, or a lesser period as specified by the Automotive Regulatory Board, in which to correct those deficiencies.

## J. Enforcement Of The Regulation

1. The Board Members of the Automotive Regulatory Board will be responsible for the enforcement of Automotive Regulatory Board regulations, and they will determine the status of licenses as a result of contraventions.

2. The Automotive Regulatory Board will review the reports submitted to it by its investigators. The Board will determine whether there has been a contravention of the Act or regulation. The Board has the authority to
   (a) order the automotive business to resolve the complaint,
   (b) order the automotive business to rectify the contravention, or
   (c) order that the licensee appear before a hearing of the Automotive Regulatory Board to determine the future status of the licence.

**K. Hearings**

1. If the Automotive Regulatory Board orders that a licensee appear before a hearing, it must
   (a) give fifteen days notice of the hearing,
   (b) notify the licensee of the purpose of the hearing, and
   (c) give full details of the investigator's report to the licensee.

2. The licensee may bring to an Automotive Regulatory Board hearing those individuals that he determines necessary to support his case.

3. The licensee may choose to be represented at the hearing by legal counsel.

4. The Automotive Regulatory Board must provide a written decision to all concerned parties within fifteen days after conducting a hearing.

5. The licensee may appeal the decision of the Automotive Regulatory Board to
   (a) the Director of Licensing of Trades and Businesses,
   (b) the Minister of Consumer and Corporate Affairs, or
   (c) the Alberta Court of Queen's Bench.

## IV. COMPLAINT RESOLUTION

### Overview

When a licensing system and business operation standards are in place, there must be a process provided to deal fairly and objectively with consumers' complaints against licensees. The Automotive Working Committee believes that the process for complaint resolution that it has designed is a balanced approach. It puts consumers and businesses on an equal footing by giving the complainant the ability to protest to an organization comprised in part of that business' peers. Those peers want to ensure the operation of a fair marketplace in which all players play by the same rules.

The Committee has designed a process whereby the consumer can have access to a mediation process or arbitration process that is not costly nor time-consuming to either side. To be effective, a complaint resolution process has to be fair. It also has to be perceived as being workable and fair. The process proposed by the Automotive Working Committee is a step in that direction.

Mediation and Arbitration

There are two alternative dispute resolution processes that can be used in place of the traditional court or litigation system. Mediation is a process in which two or more parties refer their dispute to a mediator. The mediator will assist those parties in reaching a mutually-agreeable settlement. A mediator is a facilitator who will assist the parties in reaching an agreement. The mediator will not impose a settlement upon them, nor make any decisions for the parties. The mediator's role is to help the parties to identify the issues, and to assist them in talking and negotiating. The mediation process usually ends with an agreement being reached; however, if there is no agreement, the parties are free to use any other dispute resolution process that they wish. (i.e. arbitration or legal proceedings).

Arbitration is a process in which parties in dispute refer that dispute to an independent arbitrator and agree to be bound by the arbitrator's decision. Since the decision of an arbitrator (the award) is final and binding upon both of the parties if the arbitration was conducted in accordance with the Alberta Arbitration Act, the arbitrator's award may be enforced as a judgment or Order of the Court of Queen's Bench. The arbitration process proposed by the Automotive Working Committee is outlined below.

As dispute resolution process, arbitration and mediation provide many benefits over the traditional justice system. Disputes are resolved much more quickly than taking a case to court. Mediation and arbitration proceedings are conducted in private rather than in a public courtroom. Disputes settled through mediation or arbitration usually cost far less than disputes which are taken to court.

### A. Process For Handling Complaints

1. The Automotive Regulatory Board will accept and may investigate consumer complaints against its licensees, but it will not accept or investigate another business' complaint about a transaction with a licensee. The Automotive Regulatory Board will accept information from licensees about violations of the regulations by other businesses.

2. The particulars of a consumer's complaint are to be provided in a written statement, but when necessary a verbal statement can be given to a representative of the Automotive Regulatory Board.

3. An Automotive Regulatory Board representative will
   (a) try to achieve a resolution of the complaint which is acceptable to both the consumer and the licensee, and
   (b) summarize all particulars regarding each party's viewpoint in a report to the Automotive Regulatory Board.

4. If the initial involvement of an Automotive Regulatory Board representative does not resolve the complaint, the consumer will be offered
   (a) mediation, where the consumer and licensee agree to submit their dispute to the mediation process under the guidance of a non-industry mediator appointed by the Automotive Regulatory Board, or
   (b) arbitration, where the dispute would be arbitrated under the provisions of the Arbitration Act of Alberta

5. If the consumer chooses the mediation process, an independent mediator will be appointed from a list of mediators registered with the Alberta Arbitration and Mediation Society.

6. If the consumer chooses the arbitration process, the licensee is obliged to enter arbitration also. The licensee agreed as a condition for obtaining an automotive business licence to settle otherwise unresolved disputes through arbitration.

7. When an Automotive Regulatory Board representative determines through the course of the investigation that a licensee or an automotive business agent has contravened any Act or regulation, a report detailing the particulars of the contravention will be submitted to the Automotive Regulatory Board for their review.

**B. Rules For Arbitration**

1. When a consumer chooses the arbitration process, an independent arbitrator will be appointed by the Automotive Regulatory Board from a list of arbitrators registered with the Alberta Arbitration and Mediation Society.

2. The arbitration hearing must begin within one week after the licensee is notified of the consumer's intent to go to arbitration.

3. The arbitrator must communicate with the consumer and the licensee only in each other's presence. All written communication by the arbitrator to either party must be copied to each.

4. The hearing will be held at the offices of the Automotive Regulatory Board, or at some other suitable place selected by the arbitrator.

DISCUSSION ONLY

5. The hearing will be held in private.

6. The award of the arbitrator will be communicated to the consumer, the licensee, and the Automotive Regulatory Board within two weeks of the final hearing.

7. The award must be in writing, must outline the reasons the arbitrator had for the decision, and must specify the date for payment of the award.

8. If the consumer and licensee settle their dispute before the arbitration procedure is completed, the arbitrator will formalize their agreement in an award.

9. When an arbitrator makes a financial award to the consumer, the licensee must pay the consumer the amount of the award within fifteen days of the date specified by the arbitrator.

10. If the licensee does not pay the consumer the amount of the award within fifteen days, the Automotive Regulatory Board will pay the consumer on the licensee's behalf from the Automotive Consumers' Compensation Fund.

11. All awards paid by the Automotive Regulatory Board on behalf of the licensee must be repaid to the Board by the licensee within thirty days of the Board paying the consumer, unless the licensee has contacted the Board to make alternate arrangements. Interest at the prime rate plus 3% will be charged on any outstanding balance after thirty days.

## V. COMPENSATION FUND

### Overview

The Automotive Working Committee has found that the businesses in the Alberta automotive marketplace are very concerned about the image and reputation that their industry has acquired over the years. Through the actions of dishonorable businesses, the entire industry acquires a black eye. Businesses want Alberta consumers to realize that they do care about honest and fair dealings and that they want to provide Alberta consumers with innovative and unequalled protection in automotive transactions.

A compensation fund is an innovative consumer protection program proposed by the Automotive Working Committee that would be funded and supported by all licensed automotive businesses. The compensation or assurance fund system operates efficiently when every business pays into the fund. It would not replace the business' responsibility for compensating consumers that have lost money in their dealings with the business, but it does provide protection for those consumers who deal with businesses that are unable or unwilling to compensate them for their financial loss. The compensation fund will exist and will be funded by all licensed automotive businesses as their way of saying to the Alberta consumer that they wish to take responsibility for the actions of automotive businesses.

The compensation fund will be available to consumers only. Businesses which deal with licensed automotive businesses and end up with financial losses will not have access to nor a claim on the compensation fund. The fund is designed to protect consumers who deal with licensed automotive businesses in Alberta. The compensation fund principal will be invested by the Automotive Regulatory Board in the class of securities in which trustees are permitted to invest funds under the Trust Companies Act of Alberta. A business will make a one-time payment to the compensation fund as long as the business remains active and properly licensed.

### A. Creation Of A Compensation Fund

1. The Automotive Regulatory Board will create a compensation fund to provide redress to consumers who are financially disadvantaged in transactions with automotive businesses.

2. The Automotive Regulatory Board will create an Automotive Consumers' Compensation Fund, and the principal amount in the Fund will be a minimum of $1,000,000.

**Purpose of the Fund**

3. Only a consumer who transacted business with a licensed Alberta automotive business may file a claim against the Automotive Consumers' Compensation Fund.

4. The purpose of the Automotive Consumers' Compensation Fund is to repay a direct financial loss, in whole or in part, after
   (a) a consumer attains an agreement through mediation, and the licensee does not pay within fifteen days of the date specified in the agreement, or

(b) a consumer is given an arbitration award, and the licensee does not pay within fifteen days of the date specified by the arbitrator, or

(c) the Automotive Regulatory Board establishes an award based on a contravention of the Act or regulation which has resulted in a direct financial loss to a consumer, or

(d) a consumer obtains a judgment against a licensed automotive business for
   i) theft,
   ii) fraud,
   iii) conversion,
   iv) default,
   v) misrepresentation,
   vi) bankruptcy,
   vii) breach of trust, or
   viii) contravention of the Act or regulation.

5. The Automotive Consumers' Compensation Fund is not intended to cover disputes about the quality of vehicles, nor the quality of service or repair work.

**Levies for the Fund**

6. The Automotive Consumers' Compensation Fund will be funded by all licensed automotive businesses.

7. The Automotive Regulatory Board may collect money for the Automotive Consumers' Compensation Fund by way of a levy on every licensed automotive business.

8. The money collected under such a levy, and any income from the investment of that money, will be credited to the Automotive Consumers' Compensation Fund.

9. The Automotive Regulatory Board will hold all money credited to the Automotive Consumers' Compensation Fund in trust, and must immediately deposit that money in an Automotive Consumers' Compensation Fund trust account with a trust company located in Alberta.

10. The monies of the Automotive Consumers' Compensation Fund must be separate and apart from any other money of the Automotive Regulatory Board.

11. If the amount of the Automotive Consumers' Compensation Fund falls below $750,000 at any time, then the Automotive Regulatory Board must immediately inform the Director of Licensing of Trades and Businesses.

12. If the amount of the Automotive Consumers' Compensation Fund is less than $750,000, the Automotive Regulatory Board may request that the Minister of Consumer and Corporate Affairs approve an extraordinatry levy on all automotive businesses to replenish the Automotive Consumers' Compensation Fund.

**B. Investment And Insurance**

1. The Automotive Regulatory Board may invest any part of the Automotive Consumers' Compensation Fund in any class of securities in which trustees are permitted to invest funds under the Trust Companies Act.

2. The Automotive Regulatory Board will insure the Automotive Consumers' Compensation Fund against any extraordinary claim or loss, and the costs of such insurance must be paid from the Automotive Consumers' Compensation Fund, even though a claim or loss may be the result of a decision of the Automotive Regulatory Board.

3. If the income from the investment of the Automotive Consumers' Compensation Fund exceeds the administrative costs associated with the Automotive Consumers' Compensation Fund, those monies will be used first to reimburse to the operating revenue of the Automotive Regulatory Board the costs of
   (a) mediator fees, or
   (b) arbitrator fees.

   Monies remaining after those costs have been repaid may be used to provide for
   (c) scholarships and bursaries for Albertans to undertake studies in the automotive industry,
   (d) extra education projects, or
   (e) grants to automotive associations for special purposes.

4. The income from investing the Automotive Consumers' Compensation Fund should be sufficient to pay the administrative costs associated with the Fund. If it is not sufficient, the Automotive Regulatory Board, with the approval of the Minister, may collect money by an emergency levy on all automotive businesses to pay those administrative costs.

**C. Payment From The Compensation Fund**

Mediation

1. When a consumer attains an agreement through mediation and the licensed automotive business does not pay within fifteen days of the date specified in the agreement, that consumer may apply to the Automotive Regulatory Board for compensation from the Automotive Consumers' Compensation Fund.

Arbitration

2. When a consumer has been through the Automotive Regulatory Board arbitration process, and the arbitration award is made to the consumer, the consumer must be paid that award by the licensee within fifteen days after the date specified in the award.

3. If more than fifteen days passes without the consumer receiving payment, the award will be paid by the Automotive Regulatory Board from the Automotive Consumers' Compensation Fund on the licensee's behalf.

4. When an award is paid by the Board on behalf of a licensee, the Board will automatically question the status of the business' licence.

5. All amounts paid by the Automotive Regulatory Board on behalf of the licensee must be repaid to the Board by the licensee within thirty days of the Board paying the consumer, unless the licensee has contacted the Board to make alternate arrangements. Interest at the prime rate plus 3% will be charged on any outstanding balance after thirty days.

DISCUSSION ONLY

6. If an award is appealed, the award monies must be held in trust until the appeal is finalized.

Judgment

7. The consumer may apply to the Automotive Regulatory Board for compensation from the Automotive Consumers' Compensation Fund when a consumer obtains a judgment against a licensed automotive business, or a licensed automotive salesperson, or a licensed leasing agent, based on
   (a) theft,
   (b) fraud,
   (c) conversion,
   (d) default on a contract,
   (e) misrepresentation,
   (f) bankruptcy,
   (g) breach of trust, or
   (h) contravention of the Act or regulation.

Applications for Payment

8. An application by a consumer for compensation from the Automotive Consumers' Compensation Fund must
   (a) be made at least fifteen days after the date specified in a mediation agreement when the agreed amount remains unpaid,
   (b) be made at least fifteen days after the date specified in an arbitration award when the award remains unpaid,
   (c) be made at least thirty days after a judgment has become final in the Court of Queen's Bench,
   (d) be made within one year of the date that the arbitration award or judgment was made,
   (e) be accompanied by a statutory declaration which states
      i) that the consumer's claim has not been satisfied,
      ii) the amount of the compensation being requested, and
      iii) that there will be no appeal of the judgment or award.

9. The Board must tell the Director of Licensing of Trades and Businesses when it makes a payment from the Automotive Consumers' Compensation Fund.

Maximum Claim

10. When the Automotive Regulatory Board has made a decision to provide compensation to a consumer, the Automotive Regulatory Board will pay to the consumer the amount of the claim to a maximum of $10,000.

11. When a consumer is entitled to compensation under this regulation and the consumer receives a payment from the Automotive Consumers' Compensation Fund, the Automotive Regulatory Board is assigned the rights, remedies, and securities to which the consumer was entitled against the defaulting automotive business up to the amount paid from the Automotive Consumers' Compensation Fund. The Automotive Regulatory Board may pursue the rights, remedies, and securities on behalf of itself.

**D. Annual Report And Investigation**

1. By April 15 of each year, the Automotive Regulatory Board must submit a report of all transactions involving the Automotive Consumers' Compensation Fund during the previous calendar year to the Director of Licensing of Trades and Businesses.

2. The Automotive Regulatory Board must provide the Director of Licensing of Trades and Businesses with financial statements and other information concerning the Automotive Consumers' Compensation Fund upon request.

3. The Director of Licensing of Trades and Businesses may inquire into or investigate any matter relating to the Automotive Consumers' Compensation Fund.

**E. Winding-up Of The Fund**

1. If the Director of Licensing of Trades and Businesses considers it in the public interest to do so, then he may order that the Automotive Consumers' Compensation Fund be wound up.

2. If the Automotive Consumers' Compensation Fund is wound up, then each licensed automotive business must provide the Director of Licensing of Trades and Businesses with security acceptable to the Director before it continues to conduct business.

3. The monies remaining in the Automotive Consumers' Compensation Fund must be distributed among those automotive businesses who were licensed at the time the Director of Licensing issued the winding-up order.

**F. Bylaws Respecting The Fund**

1. The Automotive Regulatory Board will make bylaws about
   (a) the procedures and methods of administering the Automotive Consumers' Compensation Fund, and
   (b) any other matters respecting the operation of the Automotive Consumers' Compensation Fund delegated to them by the Director of Licensing of Trades and Businesses.

2. The bylaws of the Automotive Regulatory Board must have the approval of the Director of Licensing, and the bylaws do not become effective until that approval has been received. Amendments to the bylaws must also be approved by the Director of Licensing.

3. The Automotive Regulatory Board must not transact any business in relation to the Automotive Consumers' Compensation Fund unless there are approved bylaws in place.

## VI. EDUCATION

### Overview

In many ways, education is the most important component of consumer protection. If the average consumer does not have enough knowledge about the products and service available in the automotive marketplace to be on a level footing with the automotive business in consumer transactions, they are at risk. Regulations are important, but one can not regulate to the point of unfairness because it creates an imbalance in the marketplace. The average Alberta business does not have the resources to conduct market studies about consumer preferences and expectations, so education about these matters benefits businesses.

Well-informed consumers expect the businesses with which they deal to have high business standards, because they will not deal with businesses that do not treat them well. When businesses know that consumers are aware of their rights and responsibilities, they tend to respond positively.

The Committee believes that the first step in an education process is to focus on the development of basic marketplace skills, to develop an understanding of how the marketplace works, to inform consumers what their rights are and what they can reasonably expect from the business.

A challenge for the future Automotive Regulatory Board will be to identify those Albertans who need information the most, to design a method by which those persons can obtain the information, and to ensure that the information provided is understandable and in plain language. The education of the business community will need to focus on helping businesses understand the consumer viewpoint, provide them with an awareness of the problems consumers experience, and understand their legislated obligations to consumers. Through education, the Automotive Working Committee feels that the Automotive Regulatory Board can help to create a fair and equitable marketplace.

### A. Start-up

1. When the Automotive Regulatory Board begins operations, there should be a kick-off news conference to inform the media in detail about what the Board can and cannot do. All members of the Automotive Regulatory Board and the Automotive Working Committee should be present at that news conference.

2. A substantial public announcement campaign should explain the Automotive Regulatory Board's existence, its powers, a brief outline of the licensing process, which automotive businesses are covered, and what consumer redress is available.

### B. Information Available

1. The following information will be made available to consumers by a toll-free telephone line or in person at an Automotive Regulatory Board office:
   (a) the status of the licence of an automotive business
   (b) the complete legal name of the business

(c) the mailing address and location of the business
(d) the name of the automotive business agent
(e) the status of the licence of an automotive business salesperson or leasing agent
(f) which business sponsored the salesperson's licence, or leasing agent's licence
(g) an explanation of the automotive business' responsibility to consumers
(h) referrals to other sources of information about automotive matters
(i) referrals to other agencies that can provide information or assistance not provided by the Automotive Regulatory Board.

2. A library of resource material on the automotive industry should be available at the Automotive Regulatory Board head office containing, but not limited to, the following:
   (a) books on the automotive industry,
   (b) flat-rate repair manuals,
   (c) manufacturer's information,
   (d) tip sheets,
   (e) video tapes explaining the different types of repairs so consumers can see what is involved,
   (f) a video of a "mock" arbitration so both business and consumer can see what happens, and so on.

3. The Automotive Regulatory Board will do market studies to assess the automotive education needed by consumers, and each automotive association should assess what educational material is necessary for their sector.

4. The Automotive Regulatory Board will set up a "Tips Line", an interactive telephone information line, to educate consumers about automotive issues such as how to buy a vehicle, how to choose automotive service and repairs wisely, a consumer's rights when dealing with a licensed business, and so on.

5. A consumer complaint toll-free number to the Automotive Regulatory Board will be available.

6. The Automotive Regulatory Board will provide printed consumer guides, such as "how to buy an auto", and "how to shop for auto repairs" for consumers.

7. The Automotive Regulatory Board will develop presentations about the automotive industry and its various sectors to present to outside groups such as high schools, continuing education classes, and so on.

8. The Automotive Regulatory Board will print educational brochures that will be available at the Board, and at the automotive businesses which wish to supply them to their customers.

**C. Important Automotive Issues**

1. The Automotive Regulatory Board must educate consumers about
   (a) the benefits of patronizing licensed automotive businesses, and the risks involved to consumers if they do not,

(b) the provisions of credit group insurance and extended warranties,
(c) the importance of requesting a copy of all work orders when service work is done, including warranty work,
(d) the meaning of disclosure, and clarification on what constitutes disclosure regarding a vehicle's prior history, condition, etc.,
(e) their right to patronize the repair shop of their choice, especially when an insurance company pays for repairs.

2. The Automotive Regulatory Board must educate consumers about purchasing used vehicles, including
   (a) advising them to be wary about buying a vehicle which has a registration slip dated less than three weeks ago,
   (b) informing them that a check with the police to see if their prospective vehicle purchase is a stolen vehicle is a good precaution,
   (c) encouraging them to ask sellers about the prior history of a vehicle,
   (d) explaining to them that a "one-owner" vehicle is not necessarily materially better than a multiple-owner vehicle.

3. Consumers should be advised to look for the Automotive Regulatory Board licence number in advertisements, and warned of the possible consequences of buying from a private seller or an unlicensed seller.

4. The Automotive Regulatory Board must educate consumers that the Compensation Fund is not intended to cover disputes about the quality of vehicles, or the quality of repair or service work.

## VII. APPENDIX

### A. Licensing Of Automotive Industry Segments

Businesses which are licensed under the Licensing of Trades and Businesses Act:

Presently (1990)

Motor vehicle sales businesss
- new car dealers
- used car dealers
- recreation vehicle dealers

Service and Repair Businesses
- general mechanical repair
- specialty automotive repair
- collision (auto body) repair
- recreation vehicle repair
- mobile automotive repair
- prepaid automotive repair contractors

Proposed by the Automotive Working Committee

**I. Classification of Motor Vehicle Sales Businesses**
- transactions are made with consumers

1. car and light truck sales - new
2. car and light truck sales - used
3. motorcycle sales - new
4. motorcycle sales - used
5. recreation vehicle sales - new
6. recreation vehicle sales - used
7. manufacturers' sales direct to the public
8. motor vehicles - leasing
9. vehicle sales - by consignment

**II. Classification of Motor Vehicle Broker Businesses**
- transactions are made with other businesses only, not with consumers

**A. Motor Vehicle Wholesale**

1. car and light truck sales - used
2. motorcycle sales - used
3. recreation vehicle sales - used
4. motor vehicles - leasing

**B. Salvage**

1. automotive salvage disposal business

**III. Classifications of Motor Vehicle Service Businesses**

**A. Automotive Service and Repair Businesses**

1. general automotive service and repair businesses
2. specialty automotive repair business - muffler

3. specialty automotive repair business - transmission
4. specialty automotive repair business - tune-up
5. specialty automotive repair business - radiator
6. specialty automotive repair business - tire
7. specialty automotive repair business - auto electric
8. specialty automotive repair business - alignment
9. specialty automotive repair business - brake
10. specialty automotive repair business - frame
11. specialty automotive repair business - air-conditioning
12. automotive lubrication business
13. vehicle upholstry business
14. automotive stero and accessory installation business
15. collision repair businesses
16. recreation vehicle service business
17. automotive glass repair business
18. motorcycle repair business
19. mobile repair services
20. prepaid automotive repair contractor
21. automotive clean-up and detail shops

**B. Automotive Recycler Businesses**

1. automotive recyclers and dismantlers

**Automotive Businesses Not to be Licensed**

*1. engine and parts rebuilders**
*2. heavy truck sales business - new or used **
*3. vehicle rental business **

* the Committee does not intend to have businesses involved in these automotive activities licensed at this time.

## B. Highlights of Licensing of Trades and Businesses Act

The Minister of Consumer and Corporate Affairs is the elected representative who is responsible for the Licensing of Trades and Businesses Act. Within the Department of Consumer and Corporate Affairs, the Director of Licensing of Trades and Businesses administers the Act. This Act provides that certain businesses may need to be licensed for the protection of the persons who deal with the business.

The Amendments to the Licensing of Trades and Business Act were passed by the Legislature in 1990 and now await proclamation. The readers of the Discussion Paper may find it useful to know some aspects of this Act as amended.

- the Act allows for
  - the registration of businesses
  - the licensing of businesses
  - the licensing of each additional variety of business
  - the licensing of each different location of business
  - the licensing or registration of salespersons or agents
  - the setting of registration and licence fees
  - the setting of examination fees.

- the Act allows for the issuance of regulations
  - outlining the rules for licence applications and licence renewals
  - setting the eligibility requirements for licensed persons
  - describing the duties and conduct of licensed persons
  - requiring the appointment of designated agents and outlining the eligibility requirements, duties, and responsibilities of those agents
  - establishing business codes, standards, or rules
    - for operating a business
    - for the experience, education, and financial responsibility necessary in the persons who operate a business
    - for the type and condition of the premises at which the business is operated
    - for the type and condition of the equipment used in the business
    - for the conduct of persons operating these businesses
  - outlining any security requirements necessary to protect the interests of people dealing with a business
  - outlining trust requirements, procedures, and rules
  - outlining the form and content of agreements used by businesses in dealing with the public
  - requiring that specified records and accounts be kept by businesses
  - providing for complaint resolution systems including procedures and methods
    - determining the types of complaints to be dealt with.

- the Act allows for the issuance of regulations
  - to establish regulatory boards which would exercise those responsibilities delegated to them
  - regarding the appointment of members to a regulatory board.

- a regulatory board may make its own bylaws but the Director of Licensing of Trades and Businesses must approve all bylaws before they become effective.

- the Director of Licensing of Trades and Businesses may delegate in writing any of his responsibilities to a regulatory board, may impose conditions on the board's exercise of those responsibilities, or may revoke or amend the delegation of responsibilities.

- the Act allows for a regulatory board to collect fees from licensed persons to enable it carry out its responsibilities.

- a person who learns information while serving on a regulatory board may not disclose that information without the written permission of the Director of Licensing of Trades and Businesses.

- the Act allows for the passage of regulations to establish standards of ethics, methods, practices, and systems applicable to any or all businesses.

- the Act allows a regulatory board to create a fund to be used to compensate persons who have suffered a loss or damage in dealing with a licensed business and for any other purpose outlined in a regulation.

- the regulatory board may levy assessments for this compensation fund on licensed persons or on designated agents over which the board has been delegated responsibility.

- if the fund does not earn enough investment income to pay its administrative costs, the regulatory board can levy an extra assessment on licensed businesses.

- the Act allows for the passage of regulations on the administration of the fund.

- the Director, regulatory board, or an authorized representative of either may inquire into or investigate any matter related to the administration of the Act.

- when a regulatory board refuses a licence, or cancels or suspends a licence, the person adversely affected can appeal to the Director of Licensing of Trades and Businesses, or to the Minister, or to the Court of Queen's Bench.

- if a licence cancellation or suspension is what is being appealed, that cancellation or suspension is put off until all of the appeals are exhausted.

- the Director of Licensing of Trades and Businesses or a delegated regulatory board can prohibit a designated agent, salesperson, or other licensed person from conducting any business until specified terms or conditions are met, if that person is associated with a licensee who is under cancellation or suspension. The person so prohibited from conducting business may appeal.

- the Act allows for the Court of Queen's Bench to issue an order restraining a person, his employees or agents, from carrying on business.

- anyone who contravenes the Act or one of its regulations or orders is guilty of breaking the law and may have to pay a fine of
  - up to $10,000 for corporations
  - up to $5,000 for individuals.

  They may be prosecuted anytime up to three years after the contravention occurred.

- when corporations are convicted, all officers, directors, employees, or agents who authorized, participated or agreed to breaking the law are also guilty and liable to fines.

**DISCUSSION ONLY**